

ILLINOIS POLLUTION CONTROL BOARD  
March 14, 1986

IN THE MATTER OF: )  
)  
PARTICULATE EMISSION LIMITATIONS, ) R82-1, Dockets A and B  
RULE 203(g)(1) AND 202(b) OF )  
CHAPTER 2 )

INTERIM ORDER OF THE BOARD (by J.D. Dumelle):

On February 6, 1986, the Board adopted a Proposed Rule/Third Second Notice Order in this matter proposing the adoption of particulate and visible emission limitations, granting a motion by the Illinois Environmental Protection Agency (Agency) to reconsider, and denying an Agency motion to establish a separate docket and to reopen the record and schedule a hearing on the opacity limitation. Since that time the Board has received a letter filed on February 27, 1986 from Steve Rothblatt of Region 5 of the United States Environmental Protection Agency (USEPA) indicating USEPA's position that the opacity limitation, as presently proposed, is unapprovable as a revision to the state implementation plan pursuant to 40 CFR 51.19(c), in that it does not allow for "the enforcement of appropriate visible emission limitations" as he argues is required thereunder. Furthermore, the Board received a USEPA news release on March 10, 1986 indicating the USEPA may "impose another growth moratorium" on the state due to the failure of the state to promulgate acceptable rules. This would ban the construction and modification of major industrial particulate sources in some parts of the state. While the Board rejected similar arguments presented by the Agency, these communications from USEPA place a cloud over the opacity rules: the state is required to comply with the Clean Air Act and regulations adopted thereunder, and USEPA's interpretation of its own rules must be given some deference .

There does not, however, appear to be any problem with the proposed rules other than the opacity rules, and the Board sees no reason to delay final adoption of those rules during further consideration of the opacity rules. Therefore, the Board will proceed with the filing of those rules for second notice as R82-1, Docket A, as contemplated in the February 6 Order and will separate out the opacity rules for further consideration.

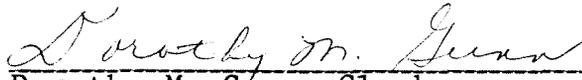
The Board hereby establishes a docket B to this proceeding to further consider the adoption of 35 Ill. Adm. Code 212.121 and 212.123. The hearing officer shall schedule an additional hearing to consider the opacity rules as expeditiously as practicable.

Finally, the Board notes that final rulemaking on this matter must occur on or before July 12, 1986 or the Board will be required to recommence the first notice process under the Administrative Procedure Act. At hearing the Board is particularly interested in receiving testimony regarding the legal requirements of the state implementation plan regarding visual emissions, what type or types of rules would or should be federally approvable, the adequacy of the present record to support the adoption of such rules, additional testimony in support of, or in opposition to, the adoption of opacity standards, and proposed revisions to those rules which are both supported by the record and federally approvable. The Board specifically requests that USEPA provide a witness to testify regarding its position on these rules.

IT IS SO ORDERED.

Board Member B. Forcade concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 14<sup>th</sup> day of March, 1986 by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board